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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,275	03/11/2004	Tara Chand Singhal	11195.30A	1919

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Tara Chand Singhal
P. O. Box 5075
Torrance, CA 90510

EXAMINER

PATEL, VISHAL A

ART UNIT PAPER NUMBER

3673

DATE MAILED: 01/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,275

Applicant(s)

SINGHAL, TARA CHAND

Examiner

Vishal Patel

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-12 is/are pending in the application.
- 4a) Of the above claim(s) 8-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 8-12 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: a new system of sealing a flexible joint in an enclosure.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 8-12 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Pelosi (US. 5,553,431).

Pelosi discloses a trim for sealing a joint between a vertical wall that surrounds a bath tub type enclosure and a horizontal situated edge surface of the bath tub, against water flow penetration, where in the past this joint has been sealed by caulk like substance that is exposed to water, and is thus subject to deterioration (intended use).

The trim comprising an elongated trim, made of a rigid water impervious material, with a front side and a back-side, the front-side (18) having a top-front-side (top of 18) and a bottom-

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front-side (bottom of 18) and the back-side (20) having a top-back-side (top of 20) and a bottom-back-side (bottom of 20), the top-front-side having a convex curvature (top surface of 18 that has the convex curvature) and the bottom-front-side having a concave curvature (bottom surface of 18 that has a concave on 14), wherein the convex and concave curvatures form a continuous S-shape curvature *that channels the water falling on the trim into the tub (intended use)*, the top-front-side joining the top-back-side at an acute angle (acute angle formed at top of the trim between the top-front-side and the top-back-side) *to channel the falling water away from the trim into the tub (intended use)*, the bottom-front-side joining the bottom-back-side at an acute angle (acute angle formed at the bottom of the trim between the bottom-back-side and the bottom-front-side) *to channel the falling water away from the trim into the tub (intended use)*, the top-back-side having a plurality of recesses (recesses 22) *for holding an adhesive sealant compound (intended use)*, the top-back-side can be affixed to the vertical wall (intended use), the bottom-back-side having a recess (recess where 36 lies) for holding an adhesive sealant (intended use), the bottom-back-side *can be affixed to the joint between the vertical wall and horizontal situated edge of the tub (intended use)* and the trim is installed at the join between the wall and the tub, *without visible caulk that is exposed to water, to channel the flow of water away from the joint (intended use).*

The recitation above that are considered to be intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

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The water imperviousness of the trim comprising the front-side glazed (the front has a finish surface) and the back-side un-glazed, when the trim is made of ceramic (applicant is claiming conditional limitations when something is done, this limitations is not considered).

The trim having a flat left edge and a flat right edge (figure 3).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelosi in view of Young (US. 5,088,247).

Pelosi discloses the invention substantially as claimed above but fails to disclose that the right-edge or the left edge having a 45 degrees bevel. Young discloses a trim (64) that forms a corner that has a right edge and a left edge having a 45 degrees bevel to form a 90 degree connection. It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the trim of Pelosi to have a bevel of 45 degrees at the right edge and the left edge as taught by Young to form a cosmetic connection between two trims at a corner.

Response to Arguments

6. Applicant's arguments filed 7/11/05 have been fully considered but they are not persuasive.

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Applicants' argument that the amendment made teaches a joint between a vertical wall and a horizontal situated edge of a tub type enclosure is not persuasive because applicant has only claimed a trim that is taught by Pelosi and the trim is capable of being used between two walls, where one wall is vertical wall and the other wall is horizontal.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is 571-272-7060. The examiner can normally be reached on 6:30am to 8:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Suzanne L. Barrett can be reached on 571-272-7053. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

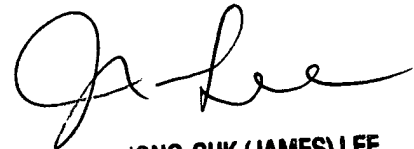
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VP

December 28, 2005

James J. Lee
Patent Examiner
Tech. Center 3600



JONG-SUK (JAMES) LEE
PRIMARY EXAMINER

10/797,275